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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,936	07/25/2003	Darin R. Packebush	10739.18.99	5399
22859	7590	04/22/2004	EXAMINER	
INTELLECTUAL PROPERTY GROUP FREDRIKSON & BYRON, P.A. 4000 PILLSBURY CENTER 200 SOUTH SIXTH STREET MINNEAPOLIS, MN 55402			OLSON, LARS A	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/626,936

Applicant(s)

PACKEBUSH, DARIN R.

Examiner

Lars A Olson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 19-31 is/are rejected.
- 7) ☒ Claim(s) 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11242003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 19 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Bartels (US 4,311,317).

Bartels discloses the same access opening seal for an access opening with an edge and a lip as claimed, as shown in Figures 1-6, which is comprised of an annular gasket, defined as Part #14, with an L-shaped cross-section that is sized and configured to conform to the shape of said access opening, as shown in Figures 1 and 2, said gasket having a top portion, an arced side portion, an exterior surface and an interior surface, as shown in Figure 2, and an optional attachment means, defined as Parts #74 and 76 in Figure 5 and 5a, that is attached to said interior surface of said gasket.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 20 and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartels in view of Burian et al. (US 5,678,827).

Bartels, as set forth above, discloses all of the features claimed except for the use of an annular gasket with a bottom portion that is substantially parallel to a top portion and has a side portion that connects said bottom portion with said top portion, and an attachment means in the form of an adhesive attached to an interior surface of said gasket.

Burian et al. discloses an annular gasket for an access opening, as shown in Figures 1-10, said gasket having a top portion, defined as Part #18, a bottom portion, defined as Part #14, and a side portion, defined as Part #16, that connects said top portion with said bottom portion, as well as an attachment means in the form of a mechanical fastener, defined as Part #50, or an adhesive, as described in lines 14-18 of column 1. Said gasket has a J-shaped cross-section, as shown in Figure 2, and is formed from a polymeric material such as ethylene propylene diene methylene (EPDM) with a Shore A durometer range of between 70 and 75, as described in lines 6-13 of column 2.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize an annular gasket with a bottom portion that is parallel to a top portion, and has a side portion that connects said bottom portion with said top portion, as well as an attachment means in the form of an adhesive, as taught by Burian et al., in combination with the access opening seal as disclosed by Bartels for the

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purpose of providing a stronger and more durable means for attaching an annular gasket onto a flange of an annular access opening.

5. Claims 1, 2, 4-10, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al. (US 6,276,290) in view of Jones (US 5,256,092) and Kato et al. (US 5,135,239).

Yamada et al. discloses a jet propelled watercraft, as shown in Figures 1-16, that is comprised of a hull, defined as Part #14, that includes a bottom hull, defined as Part #16, and a top deck, defined as Part #18, an engine compartment, defined as Part #58, that is sized to contain an internal combustion engine, defined as Part #94, for powering a jet propulsion unit, defined as Part #104, said jet propulsion unit including a steerable water discharge nozzle, defined as Part #118, said top deck having inner and outer walls, as shown in Figure 2, a raised straddle seat, defined as Part #46, at least one access opening, defined as Part #22, said access opening having a lip and an exposed edge, as shown in Figure 2, an access opening cover, defined as Part #26, and an access opening seal, defined as Part #156, that is affixed to said opening, said access opening seal being in the form of an annular gasket that is sized and configured to conform to the shape of said opening, as shown in Figure 1.

Yamada et al., as set forth above, discloses all of the features claimed except for the use of a gasket with a side portion and a bottom portion that are connected to a top portion, where said gasket is positionable around a lip of an access opening, and an attachment means that is attached to an interior surface of said gasket.

Jones discloses a sealing gasket for a watercraft access opening, as shown in Figures 14 and 15, said gasket, defined as Part #55, having a top portion that is connected to a bottom portion by means of an arced side portion, as shown in Figure 15, to form a U-shaped cross-section, where said gasket is attachable to a lip of an access opening, as shown in Figure 15. Said gasket can also have an engaging surface formed on said top portion, as shown in Figure 20, in order to form a watertight seal around an access opening when a cover, defined as Part #64 is in a closed position.

Kato et al. discloses a seal member, as shown in Figures 1-5, with a top portion that is connected to an arced side portion and a bottom portion, and an attachment means in the form of a mechanical fastener, defined as Part #36, that is attached to an interior surface of said gasket.

The examiner takes official notice that the use of an adhesive to attach a gasket to a lip of an access opening is known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a gasket having a top portion that is attached to an arced side portion and a bottom portion, and has an engaging surface formed thereupon, as taught by Jones, and a seal member having an attachment means in the form of a mechanical fastener that is attached to an interior surface of said seal member, as taught by Kato et al., in combination with the jet propelled watercraft as disclosed by Yamada et al. for the purpose of providing a stronger and more durable means for attaching an annular gasket onto a flange of an access opening on a watercraft.

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6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al. in view of Jones and Kato et al., and further in view of Bartels.

Yamada et al. in combination with the teachings of Jones and Kato et al. shows all of the features claimed except for the use of a gasket having an L-shaped cross-section.

Bartels discloses as prior art, in Figures 4 and 4a, a gasket having a top portion, defined as Part #63, a side portion, defined as Part #62, and an L-shaped cross-section.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a gasket with an L-shaped cross-section, as taught by Bartels, in combination with the jet propelled watercraft as disclosed by Yamada et al. and the teachings of Jones and Kato et al. for the purpose of providing a stronger and more durable means for attaching a gasket to a lip of an access opening on a watercraft.

7. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al. in view of Jones and Kato et al., and further in view of Burian et al.

Yamada et al. in combination with the teachings of Jones and Kato et al. shows all of the features claimed except for the use of a gasket that is formed from a polymeric material with a durometer ranging between 30 and 80.

Burian et al., as cited previously, discloses an annular gasket for an access opening, said gasket having a top portion, defined as Part #18, a bottom portion, defined as Part #14, and a side portion, defined as Part #16, that connects said top portion with said bottom portion, as well as an attachment means in the form of a

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mechanical fastener, defined as Part #50, or an adhesive, as described in lines 14-18 of column 1. Said gasket has a J-shaped cross-section, as shown in Figure 2, and is formed from a polymeric material such as ethylene propylene diene methylene (EPDM) with a Shore A durometer range of between 70 and 75, as described in lines 6-13 of column 2.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a gasket formed from a polymeric material having a durometer ranging between 30 and 80, as taught by Burian et al., in combination with the jet propelled watercraft as disclosed by Yamada et al. and the teachings of Jones and Kato et al. for the purpose of providing a stronger and more durable gasket for attachment onto a flange of an access opening on a watercraft.

#### ***Allowable Subject Matter***

8. Claims 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yamane (US 5,462,292), Westburg (US 5,096,208) and Bright (US 4,448,430) disclose various door and motor cover seals that attach to a lip of an



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access opening. Grasseschi (US 4,756,332 and US 4,706,702) discloses a seal with top and bottom portions that are connected by an arced side portion.

10. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

April 20, 2004

LARS A. OLSON  
PATENT EXAMINER

*Lars Olson*  
4/20/04